

REMARKS/ARGUMENTS

This Amendment responds to the non-final Office Action mailed January 18, 2011. Claims 1-15 were pending in this application. Claims 1-4, 6-7, 9-10, and 13-15 are amended. Claims 16-18 are added. No new matter is added by way of the amendments or the new claims. Claims 8 and 12 are canceled without prejudice or disclaimer. Therefore, after entry of the foregoing amendments and additions, claims 1-7, 9-11, and 13-18 are pending in this application for reconsideration.

The Examiner is thanked for the thoughtful and careful consideration of the present patent application. Applicants believe that in light of the foregoing amendments and following remarks, the present application is in condition for allowance. Accordingly, Applicants respectfully request prompt and favorable action.

Response to Claim Objections

Claims 1-2, 4, 6, 9-10, and 13-14 stand objected to for containing the language “the or each content resource.” Applicants respectfully disagree with the characterization of the language as confusing, and believe the meaning of the claim language as originally written creates no confusion as to the each claim’s meaning. Nevertheless, in order to advance the prosecution of the application, claims 1-2, 4, 6, 9-10, and 13-14 are amended to recite, *inter alia*, “one or more content resources.” These amendments are supported by the original language of claims 1, 6, 9, and 13. Accordingly, Applicants request withdrawal of the objections to claims 1-2, 4, 6, 9-10, and 13-14.

Response to Claim Rejections Under 35 U.S.C. § 101

Claims 8 and 12 stand rejected under 35 U.S.C. § 101 on the basis that the claims are directed to non-statutory subject matter. Cancellation of claims 8 and 12 render their rejections under 35 U.S.C. § 101 moot.

Response to Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Edward Bailey, Maximum RPM – Taking the RPM Package Manager to the Limit, 2000 (“Bailey”) in view of U.S. Patent No. 7,496,645 to Yeung *et al.* (“Yeung”) and further in view of Marjan Hericko *et al.*, “Object Serialization Analysis and Comparison in Java and .NET”, 2003

(“Hericko”). Applicants respectfully traverse these rejections on the grounds that none of Bailey, Yeung, and Hericko, taken alone or in combination, teaches or suggests all of the elements recited in the claims.

A *prima facie* case of “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003)(citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Section 2143.03 of the M.P.E.P. recites that “All words in a claim must be considered in judging the patentability of that claim against the prior art.” See *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Each of independent claims 1, 6, 9, and 13 recites, *inter alia*, “the executable code, the one or more content resources and the metadata *being stored as serialized objects within the container.*” (Emphasis added). With respect to claim 1, the Office Action admits that “Edward Bailey and Yeung et al. do not disclose: the executable code, the content resource and the metadata being stored as serialised objects within the container.” Office Action dated January 18, 2011, page 4. In order to cure these admitted deficiencies of Bailey and Yeung, the Office Action cites to Hericko. *Id.* at pp. 4-5. Applicants submit that Hericko fails to cure the admitted deficiencies of Bailey and Yeung.

In order to support its position that Hericko cures the admitted deficiencies of Bailey and Yeung, the Office Action cites to Hericko, page 44, section 1, paragraph 1, lines 1-6. See *id.* at pp. 4-5. Hericko page 44, section 1, paragraph 1, lines 1-6 discloses:

Object serialization is the process of writing the state of an object to a stream. Deserialization is the process of rebuilding the stream back into an object. Serialization has become an important concept in modern software platforms, such as Sun Java and Microsoft .NET. Both platforms provide extensive support for it, which eases the development. Serialization is the underlying concept of other technologies. It is particularly important for remote method invocation and the distributed object model, where it allows marshalling objects by value and sending them across process and computer boundaries.

Applicants disagree with the Office Action’s characterization of the teachings of Hericko. Applicants submit that nothing in the above cited portion of Hericko, or in the remainder of Hericko teaches or suggests the *serialization or storage of executable code, content resources, or metadata as objects*. Rather, Hericko simply documents the results of an evaluation of the

performance of serialization mechanisms with respect to the memory space used for a serialization process. *See* Hericko, page 44, section 2, paragraph 1, lines 1-3. Therefore, Applicants submit that Hericko is silent regarding the element of “the executable code, the one or more content resources and the metadata being stored as serialized objects within the container.” Thus, none of Bailey, Yeung, and Hericko, alone or in combination, teach or suggest all of the elements recited in amended claims 1, 6, 9, and 13.

Applicants submit that the asserted combination of Bailey, Yeung, and Hericko is improper and insufficient to render the claims *prima facie* obvious because the proposed modification of the prior art changes the principle of operation of the prior art invention being modified in violation of M.P.E.P. § 2143.01. *See In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Yeung specifically operates to update a graphical user interface by *not requiring* transferred software to be in a packaged format. *See* Yeung Col. 3, lines 24-27. The invention in Yeung operates in an unpackaged format to provide a “website owner greater flexibility in its choice of tools to employ for the transfer process.” *Id.* Therefore, any modification of Yeung to provide a container comprising executable code, one or more content resources, and metadata relating to the one or more content resources would impermissibly change the principle of operation of Yeung. Thus, the combination of Yeung with Bailey and Hericko is improper.

As admitted in the Office Action, “Edward Bailey does not disclose: executable code for a user interface.” Office Action dated January 18, 2011, page 4. Applicants submit that Hericko is silent with respect to executable code for a user interface. The Office Action cited Yeung to cure the deficiencies of Bailey (and Hericko) to provide a teaching of an executable code for a user interface.

Applicants submit that since it is improper to combine Yeung with Bailey and Hericko to arrive at the invention recited in the claims, the Office Action fails to establish a *prima facie* case of obviousness with respect to claims 1, 6, 9, and 13.

For at least these reasons, Applicants respectfully submit that independent claims 1, 6, 9, and 13 are patentable over Bailey, in view of Yeung, and further in view of Hericko. Claims 2-5, 6-7, 10-11, and 14-15, depend, directly or indirectly, from one of independent claims 1, 6, 9, or 13, and thus are also patentable over the combination of Bailey, Yeung, and Hericko for at least the same reasons as claims 1, 6, 9, or 13. Accordingly, Applicants respectfully request the

withdrawal of the rejections of claims 1-7, 6-11, and 13-15 under 35 U.S.C. § 103(a).
Cancellation of claims 8 and 12 renders their rejections moot.

New Claims

Claims 16-18 are added. No new matter is added by way of the additional claims.
Support for the added claims can be found as follows.

Claim 17 recites the same subject matter as previously recited in multi-dependent claim 3, which is amended as a singly dependent claim. Thus, new claim 17 is supported by original claim 3. Applicants submit that new claim 17 is allowable for at least the reasons stated above with respect to claims 1 and 2 from which it depends.

New claims 16 and 18 depend from claims 1 and 17, respectively, and recite “wherein the metadata is updated in an update packet defined as a binary serialization of an XML schema.” Support for these new claims is provided on page 10 of the originally filed specification. Applicants submit that new claims 16 and 18 are allowable for at least the reasons stated above with respect to claim 1 from which these claims ultimately depend.

CONCLUSION

In light of the amendments and remarks contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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By: Nicholas A. Cole/
Nicholas A. Cole, Reg. No. 60,957
(858) 658-1834

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-1834
Facsimile: (858) 658-2502